

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:18-cv-277-FDW**

<b>MALCOLM THARRINGTON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>KENNETH LASSITER, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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**THIS MATTER** is before the Court on periodic status review of the case.

*Pro se* incarcerated Plaintiff Eli Alvarez filed a civil rights suit pursuant to 42 U.S.C. § 1983 in case number 1:18-cv-116 that he purported to file on behalf of himself and four other inmates including Malcolm Tharrington. (Doc. No. 1). Several Plaintiffs failed to pay the filing fee or file a motion to proceed *in forma pauperis*, and the Complaint was so seriously deficient that the Court was unable to complete initial review. (Doc. No. 2). On May 15, 2018, the Court ordered Plaintiffs to pay the filing fee or file applications to proceed *in forma pauperis* and to file an Amended Complaint within 21 days. (*Id.*). Several of the Plaintiffs filed individual Amended Complaints and the Court severed this matter such that a separate case has been opened for each Plaintiff. (Doc. No. 5). Plaintiff Tharrington has filed an Application to Proceed in District Court Without Prepaying Fees or Costs, (Doc. No. 3), and a Motion seeking preliminary injunctive relief, (Doc. No. 4), but he has not filed an Amended Complaint to date.

Plaintiff Tharrington must file an Amended Complaint within **ten (10) days** of the date of this Order. He must include case number **1:18-cv-277** on all of his documents so that they can be filed in the correct case. This action will be dismissed without prejudice and without further notice

if Plaintiff fails to comply with this Order and all applicable rules and procedures.<sup>1</sup>

**IT IS, THEREFORE, ORDERED that:**

1. Plaintiff Tharrington shall have **ten (10) days** from the date of this Order in which to file an Amended Complaint that complies with all applicable rules and procedures. Failure to do so will probably result of dismissal of this action without prejudice.
2. The Clerk of Court is directed to mail a copy of this Order and a blank § 1983 form to Plaintiff Tharrington.

Signed: September 28, 2018



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Frank D. Whitney  
Chief United States District Judge



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<sup>1</sup> Although Plaintiff is appearing *pro se*, he is required to comply with all applicable timeliness and procedural requirements, including the Local Rules of the United States District Court for the Western District of North Carolina and the Federal Rules of Civil Procedure. The Amended Complaint must be on a § 1983 form, which the Court will provide, and it must refer to the instant case number so that it is docketed in the correct case. It must contain a “short and plain statement of the claim” showing that Plaintiff is entitled to relief against each of the defendants. Fed. R. Civ. P. 8(a)(2). The Amended Complaint must contain all claims Plaintiff intends to bring in this action, identify all defendants he intends to sue, and clearly set forth the factual allegations against each of them. Plaintiff may not amend his Complaint by merely adding defendants and claims in a piecemeal fashion. The Amended Complaint will supersede all prior pleadings so that any claims or parties omitted from the Amended Complaint will be waived. See Young v. City of Mt. Ranier, 238 F.3d 567 (4<sup>th</sup> Cir. 2001).